

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 21-41171

Chapter 7

Natalia Rose Nevin,

Debtor.

**NOTICE OF HEARING AND MOTION FOR ORDER REQUIRING
SMARTLIFE FINANCIAL GROUP, LLC TO TURN OVER RECORDS**

1. Randall L. Seaver, the Chapter 7 trustee (“Trustee”) herein, moves the court for the relief request below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 10:30 a.m. on Wednesday, December 1, 2021. The hearing will be held in Courtroom 8W, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and served by delivery not later than Friday, November 26, 2021, which is five days before the time set for the hearing (including Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction over this motion under 28 U.S.C. § 157 and § 1334 and Bankruptcy Rule 5005. This motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. § 542(e).

5. The petition commencing the Chapter 7 case was filed on June 29, 2021 (“Petition Date”). The case is now pending in this court.

6. The Trustee seeks an Order requiring the turnover of documents from Portsmouth-SmartLife Financial Group, LLC (“SmartLife”) pursuant to 11 U.S.C. § 542(e), which states as follows:

Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information, including books, documents, records, and papers, relating to the debtor’s property

or financial affairs, to turn over or disclose such recorded information to the trustee.

7. According to the Debtor's tax return she received in excess of \$100,000 from Smartlife in 2020, which is believed to relate to the debtor's services as a financial advisor.

8. The Trustee requests an Order of the Court requiring SmartLife to turnover to the trustee pursuant to 11 U.S.C. § 542(e), the following documents:

- a. Copies of any agreements between Portsmouth-SmartLife Financial Group, LLC and the debtor, relating in any way to her employment, or her right to receive payments, commissions, or wages from Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present;
- b. Copies of documents evidencing all payments made from Portsmouth-SmartLife Financial Group, LLC to the debtor from January 1, 2020 to present, including but not limited to cancelled checks and wire transfer confirmations;
- c. Copies of any and all documents evidencing any payments from the debtor to Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present;
- d. Copies of any and all communication between Portsmouth-SmartLife Financial Group, LLC on one hand, and the debtor on the other, which pertain in any way to compensation of the debtor or financial transfers relating to the debtor, for the period of January 1, 2020 to present.

WHEREFORE, the Trustee seeks an order of the Court compelling Portsmouth-SmartLife Financial Group, LLC to turn over to the Trustee within ten (10) days from the entry of the order on this motion, at 12400 Portland Ave. S., Suite 132, Burnsville, MN 55337 the following documents:

1. Copies of any agreements between Portsmouth-SmartLife Financial Group, LLC and the debtor, relating in any way to her employment, or her right to receive payments, commissions, or wages from Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present;

2. Copies of documents evidencing all payments made from Portsmouth-SmartLife Financial Group, LLC to the debtor from January 1, 2020 to present, including but not limited to cancelled checks and wire transfer confirmations;

3. Copies of any and all documents evidencing any payments from the debtor to Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present; and

4. Copies of any and all communication between Portsmouth-SmartLife Financial Group, LLC on one hand, and the debtor on the other, which pertain in any way to compensation of the debtor or financial transfers relating to the debtor, for the period of January 1, 2020 to present.

FULLER, SEAVER & SWANSON, P.A.

Dated: October 27, 2021

By: /e/ Matthew D. Swanson
Matthew D. Swanson 390271
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, trustee for the bankruptcy estate named in the foregoing notice of hearing and motion for turnover of records, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on October 27, 2021

/e/ Randall L. Seaver
Randall L. Seaver, Trustee

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UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2021, I caused the following documents:

1. Notice of Hearing and Motion for Turnover of Records;
2. Unsworn Certificate of Service; and
3. Order Regarding Turnover (proposed).

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be mailed by first-class mail, postage pre-paid to the following:

NATALIA ROSE NEVIN
817 W 57TH ST.
Minneapolis, MN 55419

Michael Baratta
Portsmouth-SmartLife Financial Group, LLC
6190 Powers Ferry Road
Suite 505
Atlanta, GA 30339

Dated: October 27, 2021

By: /e/ Matthew D. Swanson
Matthew D. Swanson

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ORDER

This case is before the court on the trustee's motion for turnover of records relating to the financial affairs of the debtor. Appearances, if any, were noted upon the record.

Upon the motion and the files,

IT IS ORDERED: Within ten (10) days of the entry of this Order, Portsmouth-SmartLife Financial Group, LLC shall turnover the following records to Randall L. Seaver, Trustee at 12400 Portland Ave. S., Suite 132, Burnsville, MN 55337:

1. Copies of any agreements between Portsmouth-SmartLife Financial Group, LLC and the debtor, relating in any way to her employment, or her right to receive payments, commissions, or wages from Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present;
2. Copies of documents evidencing all payments made from Portsmouth-SmartLife Financial Group, LLC to the debtor from January 1, 2020 to present, including but not limited to cancelled checks and wire transfer confirmations;
3. Copies of any and all documents evidencing any payments from the debtor to Portsmouth-SmartLife Financial Group, LLC from January 1, 2020 to present; and
4. Copies of any and all communication between Portsmouth-SmartLife Financial Group, LLC on one hand, and the debtor on the other, which pertain in any way to compensation of the debtor or financial transfers relating to the debtor, for the period of January 1, 2020 to present.

Dated:

Kathleen H. Sanberg
United States Bankruptcy Judge